

**CHAPTER 75-03-08**  
**FAMILY CHILD CARE HOMES EARLY CHILDHOOD SERVICES**

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**75-03-08-01. Purpose.** The purpose of this chapter is to establish minimum standards of family child care and to assure that those standards are maintained.

**History:** Effective December 1, 1981; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01

**75-03-08-02. Authority and objective.** Pursuant to North Dakota Century Code section 50-11.1-08, the department may prescribe and promulgate such rules as are necessary to carry out the provisions of North Dakota Century Code chapter 50-11.1.

**History:** Effective December 1, 1981; amended effective January 1, 1987; January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08

**75-03-08-03. Definitions.** As used in this chapter:

1. "Attendance" means the total number of children present at any one time at the home.
2. "Caregiver" means any individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in a child care home under the guidance and supervision of the family child care provider.
3. "County agency" means the county social service board in the county where the family child care home is located.
4. "Department" means the department of human services.
5. "Emergency designee" means an individual designated by the family child care provider to be a backup caregiver for emergency assistance or to provide substitute care.
6. "Family child care home" means an occupied private residence in which early childhood services are provided for no more than seven children at any one time, except that the term includes a residence providing early childhood services to two additional school-aged children during the two hours immediately before and after the school day and all day, except Saturday and Sunday, when school is not in session during the official school year.
7. "Family child care provider" means the individual who has the legal responsibility and the administrative authority for the operation of a family child care home. The family child care provider is the applicant for license or the licensee under this chapter.
8. "Provider" means the family child care provider.
9. "Staff member" means provider, substitute staff, volunteer, caregiver, or any other individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in the family child care home.

10. "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month.
11. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a fire person for fire safety week, McGruff, or Santa Claus person.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02

#### **75-03-08-04. Effect of licensing and display of license.**

1. The issuance of a license to operate a family child care home is evidence of compliance with the standards contained in this chapter and North Dakota Century Code chapter 50-11.1 at the time of licensure.
2. The current license must be displayed in the premises to which it applies.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06

#### **75-03-08-05. Denial or revocation of license.**

1. A license may be denied or revoked under the terms and conditions of North Dakota Century Code sections 50-11.1-04, 50-11.1-09, and 50-11.1-10.
2. If an action to revoke a license is appealed, the licenseholder may continue the operation of the facility pending the final administrative determination or until the license expires, whichever occurs first; provided, however, that this subsection does not limit the actions the department may take pursuant to North Dakota Century Code section 50-11.1-12.
3. The department may revoke a license to operate a family child care home without first issuing a correction order if continued operation would

jeopardize the health and safety of the children present or violate North Dakota Century Code section 50-11.1-09.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-09, 50-11.1-10

**75-03-08-05.1. Family child care home license.** The right to operate a licensed family child care home is dependent upon continuing compliance with the applicable provisions of North Dakota Century Code chapter 50-11.1 and the applicable standards contained in this chapter.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07

**75-03-08-06. Provisional license.**

1. The director of a regional human service center, in the director's discretion, or the director's designee, may issue a provisional license for the operation of a newly opened family child care home or for a previously licensed family child care home although the family child care home fails to comply with all applicable standards and rules of the department.
2. A provisional license must:
  - a. Prominently state that the family child care home has failed to comply with all applicable standards and rules of the department;
  - b. State that the items of noncompliance are set forth on a document available, upon request to the family child care provider;
  - c. Expire at a set date, not to exceed six months from the date of issuance; and
  - d. Be exchanged for an unrestricted license, which bears the same date of issuance as the provisional license, upon demonstrating compliance, satisfactory to the department, with all applicable standards and rules.
3. A provisional license may be issued only to an applicant who has waived, in writing:
  - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and

- b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the regional director of the human service center or the regional director's designee and acknowledged in writing by the provider.
5. Subject to the exceptions contained in this section, a provisional license entitles the holder to all rights and privileges afforded the holder of an unrestricted license.
6. The department shall not issue a provisional license if the facility is not in compliance with section 75-03-08-14.
7. The provider shall prominently display the provisional license.
8. The provider shall provide parents notice that the facility is operating on a provisional license and the basis for the provisional license.

**History:** Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; January 1, 1989; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 55-11.1-03, 55-11.1-04

**75-03-08-07. Application for and nontransferability of family child care home license.**

1. An application for a license must be submitted to the county agency in the county in which the facility is located. Application must be made in the form and manner prescribed by the department.
2. The license is nontransferable and valid only on the premises indicated on the license. A new application for a license must be filed by a licensed home upon change of provider or location.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-07, 50-11.1-08

**75-03-08-08. Family child care homes registered prior to effective date.**  
Repealed effective January 1, 1987.

### **75-03-08-08.1. Provider responsibilities.**

1. Except as provided in subsections 2 and 3, a provider shall maintain, whenever services are provided, at least one staff member who:
  - a. Is certified in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department; and
  - b. Is certified or trained in a department-approved program to provide first aid.
2. Substitute staff are exempted from the requirements of subsection 1.
3. A provider who uses an emergency designee and has no staff member present who is trained or certified to provide first aid and cardiopulmonary resuscitation may not be found in violation of subsection 1.
4. The provider shall have an adult present in the home at all times to supervise staff members under the age of eighteen and children in care.
5. A staff member may not at any time place children in an environment that would be harmful or dangerous to their physical or emotional health.
6. The provider shall report within twenty-four hours to the county director or the county director's designee a death or serious accident or illness requiring hospitalization of a child while in the care of the facility or attributable to care received in the facility.
7. The provider shall develop and follow a procedure for accountability when a normally unaccompanied child fails to arrive for the program.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-04,50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

**75-03-08-09. Staffing requirements.** Staffing requirements are established by the number of children physically in care at the family child care home at a given time, rather than total enrollment.

1. A provider may provide care to no more than a total of four children if all are under age twenty-four months.
2. A provider providing care to five or more children may provide care to no more than three children under age twenty-four months.

3. If a child in care has a disabling condition which requires more than usual care, the child's developmental age level must be used in determining the number of children for which care may be provided.
4. Children using the licensed facility for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-09

**75-03-08-10. Minimum qualifications of family child care providers.** A provider shall:

1. Be at least eighteen years of age;
2. Certify attendance at a minimum of nine hours of county-approved training related to child care every licensing year and the nine hours of training in the first year following initial licensure must include a department-approved six-hour basic child care course;
3. Be physically present in the home no less than sixty percent of the time when children are in care;
4. Report any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1;
5. Select an emergency designee for the home as backup for emergency assistance;
6. Ensure safe care for the children under supervision; and
7. Be mentally, physically, and emotionally able to provide adequate care for the children in the provider's charge.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

**75-03-08-11. [Reserved]**

**75-03-08-12. Minimum qualifications for all caregivers.** Each staff member who provides care shall:

1. Be at least fourteen years of age, provided that each such individual under age sixteen provides written parental consent for such employment, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate

family of the family child care provider may provide care if such family member is at least twelve years of age;

2. Be mentally, physically, and emotionally able to provide adequate care for the children under supervision; and
3. Ensure safe care for the children under supervision.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-04,50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-13. Provider and caregiver health requirements.**

1. Each provider or caregiver shall complete a health self-certification form certifying that the provider or caregiver does not have health problems that would interfere with the person's functioning as a caregiver or that would be detrimental to the health of the children or other staff. If the provider adds or replaces a caregiver after the licensure process is complete, the provider must submit a self-certification form completed by the new caregiver to the county within five working days of the caregiver's first workday.
2. Each provider or caregiver shall furnish documentation of a negative mantoux tuberculosis test prior to initial licensure or employment, and every two years thereafter. If the provider adds or replaces a caregiver after the licensure process is complete, the caregiver shall furnish documentation of a negative mantoux tuberculosis test before the first day of employment. Substitute staff are exempted from this requirement. A family child care provider who uses an untested emergency designee may not be found in violation of this provision.
3. If the physical or mental health of a provider or caregiver appears questionable, the department may require the individual to be evaluated by appropriate professionals, with the results provided to the department. The department is not responsible for the costs of any required evaluation.
4. While children are in care, a provider or caregiver shall not use or be under the influence of any alcohol or judgment-altering drugs.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-04,50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-14. Physical facilities.**

1. The family child care home shall provide adequate space, indoors and out, for the daily activities of the children. This must include a minimum



of thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, and space children are not permitted to occupy.

2. The home must be clean and maintained to protect the health and safety of children. The home and outdoor play area must be free of clutter, accumulation of refuse, standing water, unprotected wells, debris, and other health and safety hazards. Rubbish and garbage must be regularly removed.
3. There must be adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children.
4. The home must be equipped with one working smoke detector located in each sleeping area used by the children, and one working smoke detector and one fire extinguisher per level.
5. Elevated areas, including stairs or porches, must have railings and safety gates where necessary to prevent falls.
6. The home must have a drinking water supply from an approved community water system or from a source tested and approved by the state department of health.
7. Each child shall have a comfortable and clean place to sleep or rest and an individual blanket. The floor may be used only when carpeted or padded, warm, and free from drafts. A child who is in care between the hours of eight p.m. and six a.m. shall have an individual sleeping place. Any child under twelve months of age or unable to walk unassisted must be provided sleeping space in a crib with a firm mattress, or a playpen with adequate padding. A staff member may not place a child on a waterbed unless the child has attained both a developmental and chronological age of thirty-six months.
8. Exterior play areas in close proximity to busy streets and other unsafe areas must be contained, fenced, or have natural barriers to restrict children from those unsafe areas.
9. Potential hazards, including guns, household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways, may not be accessible to young children. Guns must be kept in locked storage, separate from ammunition, or trigger locks must be used. Ammunition must be kept in locked storage separate from all firearms.
10. Indoor and outdoor equipment, toys, and supplies must be safe, strong, nontoxic, and in good repair. All toys must be easily cleanable and must be cleaned and sanitized on a routine basis. Books and other toys that

are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.

11. Exit doorways and pathways may not be blocked.
12. The home must have a working telephone.
13. The home must have an indoor bathroom with a minimum of one lavatory and one flush toilet.
14. The home must have hot and cold running water. Hot water heaters must be turned down or there must be a tempering valve or an antiscalding device on the faucets used by children so that the temperature of hot water supplied to lavatories does not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
15. If the fire, safety, health, or sanitation environment of the home appears questionable, the department or county agency may require the provider to obtain an appropriate inspection from the appropriate fire authority or state department of health, and to submit the results of the inspection to the county licensing agency. Fire and safety inspections must be obtained for all initially licensed family child care homes located in manufactured homes, mobile homes, apartment buildings, homes in which care is provided to children in basements, or homes having alternate heating devices, such as wood burning stoves, propane heaters, or fireplaces. Any inspection fees are the family child care home provider's responsibility. Any problems found must be corrected.
16. Steps and walkways must be kept free from accumulations of water, ice, snow, or debris.
17. Combustible materials must be kept away from light bulbs and other heat sources.
18. Soiled or wet diapers must be stored in a sanitary, airtight container until laundered or removed from the home.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.2, 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-15. Minimum standards for provision of transportation.**

1. Within ninety days of the date of initial licensure or relicensure, the provider shall establish a written policy governing the transportation of children to and from the family child care home, if the family child care home provides transportation. This policy must specify who is to provide transportation and how parental permission is to be obtained for activities which occur outside the family child care home. If the

family child care home provides transportation, the provider shall inform the parents of any insurance coverage on the vehicles. Any vehicle used for transporting children must be in safe operating condition and in compliance with state and local laws.

2. When transportation is provided by a family child care home, children must be protected by adequate staff supervision and safety precautions.
  - a. Staffing requirements must be met to assure the safety of children while being transported.
  - b. A child may not be left unattended in a vehicle.
3. Children must be instructed in safe transportation conduct appropriate to their age and stage of development.
4. The driver shall comply with all relevant state and local laws.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04

**75-03-08-16. [Reserved]**

**75-03-08-17. [Reserved]**

**75-03-08-18. [Reserved]**

**75-03-08-19. Admission procedures.**

1. The provider shall request a preadmission visit with the child and the child's parents to acquaint the child and the parent with the home and its surroundings, the other children, and the family child care provider.
2. The provider shall inform parents about the child care program, places and times of special activities outside the home, policies, and emergency procedures, and discuss information concerning the child to identify and accommodate the child's needs. An explanation of how accidents and illnesses may be dealt with must be provided, as well as methods of discipline and developmentally appropriate techniques to be used.
3. Parents must be notified of the payment rates and the time of payment.
4. The provider shall provide parents with unlimited access and opportunities to observe their children at any time their children are in care. This does not prohibit a family child care home from locking its doors while children are in care.

5. A health assessment statement completed by the parent must be obtained at the time of initial enrollment of the child and annually thereafter. This statement must indicate any special precautions for diet, medication, or activity. This statement must serve as evidence that a child is physically able to take part in the child care program.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-20. Program requirements.**

1. The family child care provider shall have a program of daily individual and small group activities appropriate to the ages and needs of the children in the family child care home. The program must include activities that foster sound social, intellectual, emotional, and physical growth, developed with discussion and consultation with parents as to their children's needs.
2. The program must be designed with intervals of stimulation and relaxation and a balance between periods of active play and quiet play or rest. The daily routine must foster the development of good health habits and self-discipline, adequate indoor and outdoor play, rest, and sleep, with sufficient time and opportunities for various experiences.
3. The program must provide a variety of educational experiences for all ages of children served with an adequate supply of safe play equipment, toys, and materials for indoor and outdoor activity. Each family child care home shall have enough play materials and equipment so that at any one time, each child in attendance may be individually involved.
4. Areas used for napping must provide an opportunity for undisturbed rest. Napping schedules must be set for children according to the children's ages, needs, and the parent's wishes.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

**75-03-08-21. Nutrition.** Children must be served nutritious meals or snacks according to the following requirements:

1. Children in care for more than three hours shall receive either a snack or meal, whichever is appropriate to that time of day.
2. Children in care during any normal mealtime hour must be served food appropriate to that time of day.

3. Children in care after school who have not had any food since lunch shall be provided with a snack.
4.
  - a. Infants must be provided age-appropriate nutritious foods. Only breast milk or iron-fortified artificial milk, meeting the requirements of the Infant Formula Act of 1980 [Pub. L. 96-359; 94 Stat. 1190; 21 U.S.C. note et seq.], may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent.
  - b. Infants must be fed only the specific brand of artificial baby milk requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions, based upon directions of a child's physician, are provided.
  - c. Mixed formula, in single bottles or batches, that has been unrefrigerated more than one hour, must be discarded.
  - d. Frozen breast milk must be thawed under cool running tap water, in amounts needed. Unused, thawed breast milk must be discarded at the end of each day.
5.
  - a. An infant may not be fed by propping a bottle.
  - b. Cereal and other nonliquids or suspensions may only be fed to an infant through a bottle on the written orders of the child's physician.
  - c. Staff members may not leave an infant unattended during the infant's feeding or eating process.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-21.1. Health protection.**

1. Children shall have received all immunizations appropriate for the child's age, as prescribed by the state department of health.
2. At least one staff member shall meet the current basic cardiopulmonary resuscitation certification requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department.
3. Caregivers shall wash their hands before preparing or serving meals, after nosewiping, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and towels must be available at each lavatory. Clean towels must be provided daily.

4. The family child care provider shall have a statement on file, signed by the child's parents, authorizing emergency medical care for each child.
5. Sufficient first-aid supplies must be available for minor emergencies.
6. The family child care provider shall have plans to respond to illness and emergencies, including evacuation in case of fire, serious injury, and ingestion of poison.
7. The family child care provider shall designate at least one individual who may be called upon for child care assistance in emergencies.
8. The family child care provider shall develop plans to respond to minor illnesses when children may be cared for in the provider's home.
9. If children in care require medication, the caregiver shall secure and follow proper instructions as to the administration of medication. Medications must be stored in an area inaccessible to children. Medications stored in a refrigerator must be stored collectively in a spillproof container. A written record of the administration of medication, including over-the-counter medication, to each child must be kept. For purposes of this paragraph, "medication" is defined as any drug or remedy which is taken or applied internally, orally, or topically. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. Completed medication records must be included in the child's record.
10. Children with infectious or communicable conditions shall be excluded from the family child care home until the condition may no longer be transmitted and guidance regarding exclusion and return to the family child care home is obtained through consultation with local or state health department authorities. Such guidance may be obtained directly or through current published materials regarding exclusion and return to the family child care home.
11. The family child care provider may release a child only to the child's parent, guardian, individual in loco parentis, or individual who provides a written authorization by the child's parent, guardian, or individual in loco parentis.
12. A staff member may not permit a child to play outdoors without clothing appropriate to the climatic conditions.
13. A staff member may not bathe a child, permit a child to use a wading pool, or permit a child to play outdoors, without adequate supervision.

14. Children's personal items, including combs, brushes, pacifiers, and toothbrushes, must be individually identified and stored in a sanitary manner.
15. There must be a designated cleanable diapering area in the home if children requiring diapering are in care. Diapers must be changed promptly when needed and in a sanitary manner. Infants must be changed on a cleanable surface area which must be thoroughly cleaned with detergent and sanitized after each diapering. The provider may apply to the department for permission to use cloth diapers. The department, in its discretion, may grant permission upon a satisfactory showing of adequate sanitary controls.
16. All pets present in the family child care home must be properly immunized. Nondomestic animals, such as skunks, opossum, or raccoon, whether or not regarded as pets, may not be present in the family child care home. Pets may not be allowed in the kitchen or eating area during meal preparation or meals.
17. Wading pools used by the facility must be strictly supervised and must be emptied and cleaned daily.
18. All swimming pools must be approved by the local health unit.
19. Smoking is not permitted in any family child care home at any time during which a child who receives early childhood services from that family child care home is present and receiving services.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.2, 50-11.1-04, 50-11.1-08, 50-11.1-09

#### **75-03-08-22. Records.**

1. A copy of this chapter must be kept on the premises.
2. The family child care provider shall maintain the following records:
  - a. The child's full name, birthdate, current home address, names of the child's parents or legal guardian, and the business and home telephone numbers where those individuals may be reached;
  - b. A written statement from the parents or legal guardian authorizing emergency medical care;
  - c. Names and telephone numbers of individuals authorized to take the child from the family child care home;

- d. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, unless the child is a drop-in or school aged; and
  - e. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child, that must indicate any special precautions for diet, medication, or activity, must serve as evidence that a child is physically able to take part in the child care program, and must be completed annually.
3. All records maintained with respect to children receiving child care services must be kept confidential, and access must be limited to staff members, the parents, or legal guardian of each child, and to the following, unless protected by law:
- a. Authorized county agency and department representatives;
  - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
  - c. Individuals who possess written authorization from the child's parent or legal guardian. The family child care home shall have a release of information form available and shall have the form signed prior to the release of information.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07

**75-03-08-23. Discipline - Punishment prohibited.** Disregard of any of the following disciplinary rules is grounds for denial or revocation.

- 1. Discipline must be constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praise for appropriate behavior, and gentle physical restraint, such as holding. Children may not be subjected to physical harm, fear, or humiliation.
- 2. Authority to discipline may not be delegated to or be accomplished by children.
- 3. Separation, when used as discipline, must be brief and appropriate to the child's age and circumstances. Any child must be in a safe, lighted, well-ventilated room within hearing of an adult. A child may not be isolated in a locked room or closet.



4. A child may not be physically punished for lapses in toilet training.
5. When addressing a child, or while in the presence of a child, staff members may not make derogatory remarks about the child, the child's family, race, or religion nor use profane, threatening, unduly loud, or otherwise abusive language.
6. A child may not be force-fed, unless medically prescribed and administered under a physician's care.
7. Deprivation of meals may not be used as a form of discipline or punishment.
8. A child may not be punched, spanked, shaken, pinched, bitten, roughly handled, or struck by any staff member or any other adult in the facility.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07

**75-03-08-24. [Reserved]**

**75-03-08-25. [Reserved]**

**75-03-08-26. [Reserved]**

**75-03-08-27. Effect of conviction on licensure and employment.**

1. A family child care home provider may not be, and a family child care home may not employ, in any capacity that involves or permits contact between the employee and any child cared for by the family child care home, an individual who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code sections 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

- b. An offense other than an offense identified in subdivision a, if the department in the case of a family child care provider, or the family child care provider in the case of an employee, determines that the individual has not been sufficiently rehabilitated.
2. Within ninety days of the date of initial licensure or relicensure, a family child care home shall establish written policies and engage in practices that conform to those policies to effectively implement this section.
3. For the purposes of subdivision b of subsection 1, the department in the case of a family child care provider, or the family child care provider in the case of an employee, shall treat completion of a period of five years after final discharge from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, as prima facie evidence of sufficient rehabilitation.
4. The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing upon an individual's ability to serve the public as the owner or proprietor of a family child care home.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-08

**Law Implemented:** NDCC 50-11.1-06.1

**75-03-08-28. Child abuse and neglect determinations.** If a probable cause determination or a decision that services are required under North Dakota Century Code chapter 50-25.1 exists, indicating that any child has been abused or neglected by a staff member, that individual shall furnish information satisfactory to the department, from which the department may determine the staff member's current ability to provide care free of abuse and neglect. The determination of current ability must be furnished to the family child care provider and to the regional director of the human service center or the regional director's designee for consideration and action on the family child care home license.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, 50-11.1-09

**75-03-08-29. Allowable time periods for correction of deficiencies.**

1. Deficiencies noted in a correction order must be corrected:
  - a. For a violation of section 75-03-08-09, subsections 2 and 7 of section 75-03-08-14, or section 75-03-08-23, within twenty-four hours.

- b. For a deficiency that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-08-14, within sixty days.
  - c. For a deficiency that requires substantial building remodeling, construction, or change, within sixty days.
  - d. For all other deficiencies, within twenty days.. All periods for correction begin on the date of receipt of the correction order by the licensee.
3. The regional supervisor of early childhood program licensing may grant an extension of additional time to correct deficiencies, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the licensee and a showing that the need for the extension is created by unforeseeable circumstances and the licensee has diligently pursued the correction of the deficiency.
4. The provider shall furnish a written notice of completion of the correction order action to the county agency. The correction order is effective until the county agency receives the notice.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-08

**Law Implemented:** NDCC 50-11.1-07.2

#### **75-03-08-30. Fiscal sanctions.**

1. A fiscal sanction of twenty-five dollars per day must be assessed for each violation of subsections 1, 2, and 9 of section 75-03-08-14; subsection 3 of section 75-03-08-21.1; or section 75-03-08-23 for each day, after the allowable time for correction of deficiencies ends, that the family child care home has not verified correction.
2. A fiscal sanction of fifteen dollars per day must be assessed for each violation of section 75-03-08-09; subsections 8 and 10 of section 75-03-08-14; or subsection 13 of section 75-03-08-21.1 for each day, after the allowable time for correction of deficiencies ends, that the family child care home has not verified correction.
3. A fiscal sanction of five dollars per day must be assessed for each violation of any other provision of this chapter for each day, after the allowable time for correction of deficiencies ends, that the family child care home has not verified correction.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-07.4, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-07.4

**75-03-08-31. Appeals.** An applicant or provider may appeal a decision to deny or revoke a license by filing a written appeal with the department within ten days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

**History:** Effective January 1, 1999.

**General Authority:** NDCC50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-09